

ESA SPECIES LIST - FAQ

For the Highways & Local
Programs Website

Q: What is a species list?

A: A species list identifies any species listed, or those proposed or candidate for listing under the Federal Endangered Species Act (ESA) which may occur in the vicinity of a proposed project.

Q: Where do I get species lists?

A: Species lists are provided by the two federal agencies that have jurisdiction over Threatened and Endangered species. These two agencies (referred to as the “Services”) are the United States Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NOAA Fisheries).

Q: Why do I have to request a species list?

A: Under provisions of section 7(a)(2) of the ESA, a federal agency that permits, licenses, funds, or otherwise authorizes activities must consult with the Services to ensure that its actions will not jeopardize the continued existence of any listed species. Section 7(c) states that to remain compliant with the above regulation, agencies must request information from the Services regarding whether any species that is listed or proposed to be listed may occur in the vicinity of the proposed action.

The above requirements must be met for those projects where federal aid is being requested through Federal Highway Administration (FHWA) for a local agency project. The Local Agency Guidelines (LAG) Manual section 24.71 addresses the necessity of acquiring a species list.

<http://www.wsdot.wa.gov/TA/Operations/LAG/Lag24.pdf>

Q: When do I have to get a species list?

A: As part of the ESA section 7 consultation process, whenever a federal action (project) is proposed, a species list must be obtained to identify if listed or proposed species could occur in the action area and to determine if the preparation of a biological assessment is necessary. Because a project can not be initiated prior to the fulfillment of the federal action agencies ESA section 7 obligations, receipt of the species list early in the project design phase is advised to allow time for completion of the section 7 consultation.

The Project Development Process outlined in the LAG Manual (Chapter 14) describes the sequence of steps necessary to develop federal aid projects. The Project Development Checklist (LAG Manual, Appendix 14.62) is used by local agencies to initiate and document these necessary steps. The first step in the Environmental Processes section of the checklist is to submit species listing requests. <http://www.wsdot.wa.gov/TA/Operations/LAG/Lag14.pdf>

Q: How do I request a species list?

A: The local agency must request a species list, in writing, from USFWS. The Washington State Department of Transportation (WSDOT) has provided a species list request template in the Local Agency Guidelines Manual, Appendix 24.104.

USFWS species list requests should be mailed to:

Western Washington	Central Washington	Eastern Washington
Mr. Ken Berg U.S. Fish and Wildlife Service 510 Desmond Dr. SE, Ste. 102 Lacey, WA 98503-1273	Mr. Mark Miller U.S. Fish and Wildlife Service 32 C Street NW PO Box 848 Ephrata, WA 98823	Ms. Susan Martin U.S. Fish and Wildlife Service Spokane Field Office 11103 E. Montgomery Dr. Ste.2 Spokane, WA 99206

It is not necessary to request a species list in writing from NOAA Fisheries. NOAA Fisheries refers local agencies to their species information website (<http://www.nwr.noaa.gov/1salmon/salmesa/index.htm>). The website contains maps, Federal Register notices, and listing status of species under NOAA Fisheries jurisdiction.

Q: Do I have to get a list for every project?

A: A species list must be acquired for each action having federal involvement, including those that receive federal aid. After requesting a species list from USFWS, local agencies will receive a countywide list that likely will cover their entire jurisdiction. This countywide list can be used for all biological assessments written for projects that occur within the county within 180 days of receiving the species list.

Q: Do species lists expire?

A: Yes. Species lists must be updated every six months. ESA section 7 consultations require that a biological assessment must be completed within 180 days of the receipt of the species list. If more than 180 days elapses before the biological assessment is completed and submitted to the Services, an updated species list should be requested. If the updated species list reflects any change in species status or location, the biological assessment must be revised to address this updated information.

Q: What happens if a local agency does not keep its species list updated? (Or relies on an expired list for a project?)

A: The potential exists for species or critical habitat to become listed or experience status changes within the vicinity of the proposed action. In addition, new species information is constantly being provided to the Services regarding distribution of listed species and suitable habitat definitions. The use of an outdated species list could result in omission of listed or proposed species from the section 7 consultation process. Such omission could lead to impacts to listed species that the local agency was unaware of and violation of the ESA.

Q: What other species and habitat information should I request in addition to the listing provided by the Services?

A: Washington Department of Fish and Wildlife (WDFW) and Washington Department of Natural Resources (WDNR) provide information on the locations of rare plants and animals throughout Washington State. This information is helpful in refining the potential presence of listed species at project-level detail. WDNR provides information on the locations of sensitive plants and rare plant communities that are documented in a Natural Heritage Program (NHP) database. NHP data should be requested for each individual project.

WDFW's Priority Habitats and Species (PHS) database provides information on important fish, wildlife, and habitat locations throughout the state. PHS is the most comprehensive way that WDFW can provide wildlife and habitat information to local agencies. Data in the PHS program is updated at least every six months. PHS data should be requested for each individual project. If WDFW has given the local agency access to the PHS database for use in a private GIS application, then the request is not necessary, and agencies can access the database without contacting WDFW. However, these local agencies must ensure that they receive PHS updates from WDFW as often as they occur.

It is important to note that PHS information is sensitive and confidential, and should not be included within any document that is part of the public record, including biological assessments. When referring to species presence, use general terms to avoid disclosing sensitive information. For example, state, "A bald eagle nest is located within two miles of the project area" rather than providing an exact location.

Request PHS and NHP data from:

PHS Data	NHP Data
Lori Guggenmos Priority Habitats and Species WA Department of Fish and Wildlife 600 Capitol Way N. Olympia, WA 98501-1091	Sandy Swope Moody Washington Natural Heritage Program Division of Forest Resources Department of Natural Resources PO Box 47016 Olympia, WA 98504-7016

Q: If PHS data provides more detail, why is a species list from the Services necessary?

A: WDFW PHS data is the best information source for the known presence of species near the local agency project. However, PHS data does not provide information on the *potential occurrence* of listed species, whereas a species list from USFWS does. Due to workload constraints, USFWS has recently began providing species lists in a countywide format. Consequently, these species lists now include many more species than would have been provided in a project-specific list.

Biological assessments must still address all of the species and critical habitats on current countywide species list, basing the level of analysis on the likelihood of species occurrence and the impacts of the proposed action. Potential species occurrence should be determined by range and suitable habitat in the action area. In some cases, a short description in the biological assessment may be adequate to sufficiently assess project impacts on listed species or critical habitat. For example, brown pelican are on the species list for Pacific County. If the project is located several miles from the Pacific Ocean, a sentence stating, "Because no marine habitat occurs within the action area, brown pelican are not present and are not addressed in this assessment" will adequately document project impacts to the species. As another example, if the action area is located 2 miles from spotted owl designated critical habitat, a sentence stating "The project action area is not located within 2 miles of designated critical habitat" will sufficiently address impacts to critical habitat.

Also, section 7 of the ESA requires that a species list be obtained from the Service(s) prior to preparing a biological assessment. Ideally, the species list provided by the Services and the PHS and NHP data will be used to provide the best available documentation on listed species presence near the project.